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Attorneys for Defendant  
REGAL ENTERTAINMENT GROUP

**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**  
**SOUTHERN DIVISION**

MARSÍ ZINTEL, individually and on  
behalf of all others similarly situated,

Plaintiff,

vs.

REGAL ENTERTAINMENT GROUP,

Defendant.

Case No.: CV 09-01393 (DOC) (RNBx)

**CLASS ACTION**

**JOINT REPORT OF CONFERENCE  
PURSUANT TO FED. R. CIV. P. 26(f)**

Date: May 3, 2010  
Time: 8:30 a.m.  
Courtroom: 9-D  
411 West Fourth Street,  
Room 1053  
Santa Ana, CA 92701-4516

Complaint Filed: July 28, 2009

Honorable David O. Carter

Plaintiff Marsi Zintel ("Plaintiff"), individually and on behalf of all others  
similarly situated, and Defendant Regal Entertainment Group ("Defendant") have

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1 conferred pursuant to the Court's Scheduling Order of December 28, 2009, and Fed. R.  
2 Civ. P. 26(f). Counsel for the parties submit this report based upon that meeting.

### 3 **I. JURISDICTION**

4 Plaintiff filed this action in the District Court for the Central District of  
5 California, Western Division on July 28, 2009. The case was assigned to Honorable  
6 Christina A. Snyder. This action was then transferred to the Southern Division by  
7 stipulation and order, pursuant to General Order 98-03, on December 1, 2009. Plaintiff  
8 alleges subject matter jurisdiction based upon federal question jurisdiction pursuant to  
9 28 U.S.C. § 1331 and 15 U.S.C. § 1693 *et seq.* Jurisdiction is not disputed.

### 10 **II. SUMMARY OF FACTS AND ISSUES**

11 Plaintiff alleges that in violation of federal law, Defendant Regal Entertainment  
12 Group ("Defendant") charged her, and similarly situated individuals for whom she  
13 seeks certification as class representative, a transaction fee for usage of an alleged  
14 Defendant-owned/operated Automated Teller Machine (ATM) located at a movie  
15 theater at 26701 Aliso Creek Road, Aliso Viejo, California. Plaintiff alleges that  
16 Defendant's transaction fees were unlawful because they were charged during a period  
17 when Defendant failed to post on-machine notice of ATM transaction fees in  
18 compliance with the fee-notice requirements of the Electronic Funds Transfer Act,  
19 15 U.S.C. § 1693 *et seq.* (the "EFTA"). Plaintiff seeks statutory damages, costs and  
20 legal fees as permitted by the EFTA.

21 Defendant filed its Answer and Affirmative Defenses on November 23, 2009.  
22 Defendant denies liability.

### 23 **III. AMENDMENT OF PLEADINGS**

24 Plaintiff and Defendant do not plan any amendments to the pleadings nor the  
25 addition of any new parties. If there is a need to join other parties or amend pleadings,  
26 the parties will seek leave of Court to do so within 60 days of this report.

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1 **IV. MOTION PRACTICE**

2 Other than the stipulated transfer to the Southern Division, no motions have  
3 been filed by Plaintiff or Defendant. Judge James V. Selna declined to accept a  
4 transfer this case to his calendar on March 3, 2010.

5 Should the case not settle (see item 5, below), Plaintiff will move for class  
6 certification and may move for summary judgment.

7 Defendant will oppose class certification and summary judgment, contending  
8 that there are individual issues of knowledge, reliance and causation.

9 **V. SETTLEMENT DISCUSSIONS**

10 The parties have been in direct settlement negotiations, without a mediator, and  
11 have already exchanged relevant data. The parties anticipate a settlement resolution  
12 before the date of the initial scheduling conference on May 3, 2010.

13 **VI. DISCOVERY**

14 Plaintiff and Defendant have engaged in informal discovery and voluntary  
15 exchange of information. To date no formal written discovery has been served. The  
16 parties are scheduled to make initial disclosures on April 26, 2010. The parties are  
17 negotiating a settlement and believe that a proposed agreement will be reached prior to  
18 filing initial disclosures.

19 In the event that the case were not settled, Plaintiff would plan to take a Rule  
20 30(b)(6) person most knowledgeable deposition from Defendant, including related  
21 production of documents, and Defendant would plan to take Plaintiff's deposition, with  
22 related production of documents.

23 In the event that a class were certified, Defendant would take the depositions of  
24 a sampling of class members. This discovery could be accomplished within 90 days  
25 following the end of the opt-out period for class members.

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**VII. TRIAL ESTIMATE**

Plaintiff has made a demand for jury. The parties estimate that a jury trial could be completed within the four day time period specified in the Court's Order Setting Scheduling Conference.

**VIII. OTHER ISSUES**

At this time the parties are not aware of issues beyond those outlined above.

**IX. PRE-TRIAL AND TRIAL DATES**

The parties propose the following post-certification trial-related dates should the Court grant class certification. If class certification were denied, the parties recognize that the trial-related schedule could move on a faster time frame.

Motion for class certification: to be filed by June 7, 2010. (The following discovery, motion and trial schedule allows time for determination of class certification, class notice, opt-outs, and formation of the class if class certification were granted.)

Discovery cutoff: November 1, 2010.

Last date for hearing of motions: December 20, 2010.

Final pretrial conference: February 28, 2011.

Trial date: April 19, 2011.

**X. COMPLEX DESIGNATION AND THE MANUAL**

At this time, the parties do not believe this case is complex and decline to incorporate the procedures set forth in the Manual for Complex Litigation.

**XI. ECF**

Lead Trial Counsel for Plaintiff and the potential class, Michael T. Harrison, has registered as an ECF user and his e-mail address of record is [mharrison30@aol.com](mailto:mharrison30@aol.com).

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1       Lead Trial Counsel for Defendant, Paul J. Hall, has registered as an ECF user  
2 and his e-mail address of record is [phall@nixonpeabody.com](mailto:phall@nixonpeabody.com).

3  
4 DATED: April 19, 2010

Respectfully submitted,

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7 /s/

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14  
15 /s/

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22 **Attorneys for Defendant**